

**North Northamptonshire Area Planning Committee  
(Thrapston)  
21 February 2022**

<b>Application Reference</b>	<b>NE/21/01708/FUL</b>
<b>Case Officer</b>	<b>Gavin Sylvester</b>
<b>Location</b>	<b>Aldwincle Pre School, Main Street, Aldwincle</b>
<b>Development</b>	<b>Permanent siting of mobile classroom on site for use as Pre-School by children aged 2 - 4.</b>
<b>Applicant</b>	<b>Mrs Anna Watts</b>
<b>Agent</b>	<b>Oundle Architecture - Mr Joe Croser</b>
<b>Ward</b>	<b>Thrapston</b>
<b>Overall Expiry Date</b>	<b>24 January 2022</b>
<b>Agreed Extension of Time</b>	<b>TBC</b>

**List of Appendices**

Appendix A - Copy of Decision Notice and Officer Report for application EN/06/01351/FUL granting a 3 year planning permission for a temporary building for Aldwincle playgroup.

Appendix B - Copy of Decision Notice and Officer Report for application EN/11/00705/FUL granting a 3 year planning permission for a temporary building for Aldwincle pre-school.

Appendix C - Copy of Decision Notice and Officer Report for application 14/01180/FUL granting a 3 year planning permission for a temporary building for Aldwincle playgroup.

Appendix D - Copy of Decision Notice and Site Plan showing the planning permission granted (ref. 19/00417/FUL) to change the use of the existing annex at no. 50 Main Street to a separate dwelling with repair/partial rebuild of existing garage, new rear extension and oil tank and provision of access driveway and parking.

## **Scheme of Delegation**

This application is brought to committee as it falls outside of the Council's Scheme of Delegation because (i) the number of objections exceeds the threshold of three, and (ii) because the recommendation to grant a permanent planning permission is contrary to the recommendation of the Parish Council that planning permission be renewed on a three-yearly basis and conditional upon a building surveyor's report being submitted.

### **1. Recommendation**

---

- 1.1 That planning permission be GRANTED subject to a condition.

### **2. The Proposal**

---

- 2.1 Planning permission is sought for the permanent siting of a mobile classroom building in the grounds of the Trinity CE Primary School, in a location behind the School staff car park and adjacent to the rear garden of the neighbouring residential property (no.50 Main Street).
- 2.2 The building is in use as the Aldwinckle Pre-School and it has been in situ since 2006 following the grant of consecutive temporary planning permissions, the last of which expired in August 2017. The Pre-School is accessed by a gated footpath that extends from the highway and alongside the boundary with the neighbouring property. The building has a height of 3.2m above ground level and the walls are finished in greyish green painted render with white coloured window frames. A timber and translucent canopy has been erected to the rear of the building (reported to have been erected in 2015/2016).
- 2.3 The previous planning permissions did not control the operating hours of the Pre-School (nor did they impose any other operating restrictions), however it is understood the Pre-School is open to children between 8:45a.m - 2:50pm Monday to Friday during the School term, with a maximum of 16 Children per session (two sessions per day – morning and afternoon).

### **3. Site Description**

---

- 3.1 The building is located within the grounds of the Trinity CE Primary School and adjacent to a stone boundary wall (approx. 2.5m height) that defines part of the boundary between the School and the garden of the adjacent dwelling no. 50 Main Street (no. 50 is a single dwelling created by merging nos. 48 and 50 into a single dwellinghouse). The building is set back approx. 45m from the highway.
- 3.2 At no. 50 Main Street, planning permission was granted in April 2019 to change the use of the existing annex at no. 50 Main Street to a separate dwelling with repair/partial rebuild of existing garage, new rear extension and oil tank and provision of access driveway and parking. This development has commenced and the new dwelling would be located approx. 15m from the Pre-School building. The parking and turning area to

no. 50 and the new dwelling would be located adjacent to the stone boundary wall that encloses the part of the School grounds close to where the Pre-School building is located.

- 3.3 There are Grade II listed buildings on the opposite side of Main Street and the Grade I Listed St Peter's Church is located approx. 67m to the north.

#### **4. Relevant Planning History**

---

- 4.1 06/01351/FUL – Temporary building for Aldwincle Playgroup. Permitted in August 2006 for a period of three years.
- 4.2 11/00705/FUL – Mobile classroom for a pre-school playgroup (retrospective). Permitted in July 2011 for a period of three years.
- 4.3 14/01180/FUL – Retention of mobile classroom for Aldwincle Playgroup. Permitted in August 2014 for a period of three years.
- 4.4 09/00250/FUL - Access path to existing temporary building for Aldwincle Playgroup, granted planning permission in April 2009, following refusal of an earlier application for an access path, ref. 07/02055/FUL, owing to harm that would be caused to the amenities of the occupiers of no. 48 Main Street due to loss of privacy and nuisance.
- 4.5 Relevant planning history of no. 48/50 Main Street:
- 4.6 19/00417/FUL – planning permission to change the use of the existing annex to separate dwelling with repair/partial rebuild of existing garage, new rear extension and oil tank and the provision of an access driveway and parking was permitted in April 2019. This permission was amended in July 2021, ref. NE/21/00904/AMD to add 1 no of windows to the side and to omit the false garage door front to the front gable elevation.

#### **5. Consultation Responses**

---

A full copy of all comments received can be found on the Council's website [here](#)

##### **5.1 Aldwincle Parish Council**

No objections in principle, however, it does have concerns over the longevity of structures of this nature. The existing building was initially given temporary planning permission for three years in 2006. This was subsequently renewed in 2011 and 2014. Was an application ever lodged for the further extension of the permission in 2017? The Parish Council does not have any record of being consulted. The building is now 15 years old and councillors would be interested to learn if there has ever been an assessment by a building surveyor. If the Local Planning Authority (LPA) decides to approve the application, then the Parish Council considers that the building should continue to be a temporary structure and asks that approval be conditional on there being a building surveyor's/building regulations report, renewed on a three-yearly basis

## 5.2 Neighbours / Responses to Publicity

23 letters in total have been received. Of these, five letters of objection have been received from the occupiers of four nearby residential properties. The remaining 18 are letters of support. Eight of the 18 letters of support have been received from persons with an Aldwinckle address. The issues raised are summarised below:

### 5.3 Objections:

- How and why has it been allowed to function after planning permission has expired? How does this affect insurance policies?
- The building is temporary with a limited life and needs to be surveyed and checked by the Local Planning Authority to determine its suitability.
- The building is in a poor condition.
- Outdoor areas of the Pre-School are unauthorised with no planning permission. These are two covered areas (one large covered area erected in 2015), astro turf and paved areas (laid circa 2020).
- Noise impacts are a nuisance and the extended outdoor play space has materially increased noise and disturbance, with children outdoors in all weathers and more frequently, which does not mirror the short break-time and lunch-times in the rest of the School.
- Lack of justification to continue using this temporary building which Planning Officers reported was temporary and unsuitable for a permanent planning permission and would not be allowed to become permanent – it would be resisted.
- It is unclear how many children from the village attend the Pre-school and is thought that few actually do, resulting in vehicle journeys to the School and increased parking on roads.
- Parking on the road causes congestion, highway safety issues and inconvenience to occupiers exiting driveways.
- There is capacity (vacant classrooms) in the School buildings for the pre-school.
- Query the legality of sub-letting by the Academy to the pre-school.
- Permission should be rejected, but it would be reasonable to grant a short temporary permission to allow the Pre-School to look for a permanent solution and viable options with conditions to require discussion with residents to explore managing.
- Not all neighbouring properties have been notified and not site notice has been displayed to raise awareness of the planning application.

### 5.4 Support:

- Is a valued asset providing safe and fun care and education to the community's younger children. There are few childcare choices in the locality.
- The existing building works well and having to repeatedly apply for planning permission uses time and money better spent in other areas.
- Safety is a priority and is checked.
- Is the only childcare option for some and allows opportunities to walk from home to Pre-School.

- Eases the transition from Pre-School to School in terms of familiarity of the children to the environment, friends and staff.
- The School Headteacher says it remains the vital feeder to the Primary School and helps the transition to the School. It is not possible to accommodate the Pre-School within the main School building. With regard to noise the Pre-School's use of the outdoor space is no more than that of the Reception class. Younger year groups, particularly Reception class, have access to their outdoor space throughout the day.
- The Pre-School communicates with parents/carers to park appropriately at drop-off and pick-up.
- Drivers park for a short time to drop-off and pick up children.

## **6. Relevant Planning Policies and Considerations**

---

### 6.1 Statutory Duty

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

### 6.2 National Policy

National Planning Policy Framework (NPPF) (2021)  
National Planning Practice Guidance (NPPG)  
National Design Guide (NDG) (2019)

### 6.3 North Northamptonshire Joint Core Strategy (JCS) (2016)

Policy 1 – Presumption in Favour of Sustainable Development

Policy 2 – Historic Environment

Policy 7 – Community Services and Facilities (including those that provide for the health and well-being, social, educational, spiritual, recreational, leisure and cultural needs of the community) should be safeguarded in accordance with part c) of this policy unless it can be demonstrated they are no longer viable, needed and are not needed for any other community use or that the facility is being relocated and improved.

Policy 8 – Place Shaping Principles, including appearance and neighbour amenity considerations.

Policy 11 – The Network of Urban and Rural areas.

### 6.4 Rural North and Oundle Plan (RNOT) (2011)

None relevant

### 6.5 Local Plan – emerging East Northamptonshire Local Plan (LPP2) (2021) Submission Version:

EN1 – Spatial Development Strategy.

EN3 – Settlement boundary criteria for free standing villages.

EN13 – Design of buildings.

EN14 – Designated heritage assets.

### 6.6 Neighbourhood Plan:

None applicable.

## 6.7 Other Relevant Documents

None relevant

## 7. **Evaluation**

---

The key issues for consideration are:

- Principle of Development
- Visual Impact
- Impact on Neighbouring Amenity

### 7.1 **Principle of Development**

7.1.1 The building subject to this application has been granted temporary planning permission on three separate occasions going back to 2006, the last of which expired in August 2017, approximately four and a half years ago.

7.1.2 The Decision Notices for each planning permission give the reason for time limiting each planning permission to three years as follows:

*“in the interests of visual amenity and to maintain proper planning control”.*

7.1.3 Officers considered that a permanent planning permission for the building would not be acceptable because of its impact on visual amenity. Paragraph 7.2.1 of the Officer Reports for the 2011 and 2014 Planning Permissions explain that the building:

*“...is a temporary structure fit for temporary accommodation. It should by no means be seen as a long term solution.”* The Report continues that *“A further issue of a temporary consent, without comprehensive evidence of progression [towards fundraising towards a permanent building] is likely to be resisted.”*

7.1.4 Whilst the reason for granting temporary planning permissions is stated as “visual amenity”, it is noted that in each of the three Officer Reports, it is concluded that the building, at the time of inspection, is not visually unacceptable. For example, the 2014 Officer Report records in paragraph 7.3.1 that:

*“Views of the mobile building from the street are possible but the mobile is largely obscured by trees, shrubs and a 1.8m high fence to the south of the building. Given the neutral colouring of the building and as it does not hold any dominance in the streetscene, the mobile does not have an adverse impact on the character and appearance of the area”.*

7.1.5 It is therefore clear that the building, when inspected by officers during the consideration of each planning application from 2006-2014, was not considered to harm the character and appearance of the area.

7.1.6 Given that “visual amenity” was the planning reason for limiting each temporary planning permission to no more than 3 years, the main issue to consider is whether the visual impact of the building, should the Council relinquish planning control and allow it to remain in situ indefinitely, be

unacceptably harmful to the character and appearance of the locality.

- 7.1.7 The other issue to consider is whether there have been any material changes in policy or other circumstances, beyond visual impact, that have occurred since the last grant of planning permission that would justify refusing planning permission for the building to remain in situ.

## 7.2 **Visual Impact**

- 7.2.1 Officers consider that the building continues to have no adverse impact on the character and appearance of the area for the reasons given in granting the previous planning permissions. The building is modest in scale, has a simple rectilinear form, not unlike the existing main school buildings, and subdued colour finish that assimilates with its surroundings. It is positioned well back in the site where it is barely visible from a public vantage point.
- 7.2.2 This raises the question as to why the Council considered it is necessary for reasons of visual amenity to grant the building temporary planning permissions rather than a permanent permission. After all, the previous Officer Reports record the reasoning that the building “...is a temporary structure fit for temporary accommodation. It should by no means be seen as a long term solution.” This raises the question as to why and what makes the building unacceptable as a long term solution to accommodating the needs of the Pre-School, such that the Council needed to retain “...proper planning control”?
- 7.2.3 This question is likely to be answered by concerns over the robustness and durability of the mobile building. The building is not constructed from “traditional” masonry raising fears it may deteriorate and fall into disrepair in a shorter period of time than a masonry building, such that it would have a negative impact of the character and appearance of the area. The temporary permissions were likely to have been considered necessary to allow regular assessment of the building’s condition and the state of its appearance at regular intervals to enable proper planning control to be exercised.
- 7.2.4 The building, which has been in situ since 2006, remains in generally good order and is not exhibiting any notable signs of undue physical deterioration. It is reasonable to conclude that the appearance of the building and its effect on the character and appearance of the locality is not materially different to when it was sited in 2006. Given the location of the building and the relative inability to see much of it from a public vantage point, Officers consider it unlikely that the building will rapidly deteriorate in condition to such an extent that it adversely affects the character and appearance of the area.
- 7.2.5 But what if it does? In the event that the building deteriorates in condition to such an extent that it adversely affects the amenity of the area, it would be open to the Local Planning Authority to consider using its powers under Section 215 of the Town and Country Act 1990 to rectify the harm. Section 215 gives powers to a Local Planning Authority to require proper maintenance of land and buildings if it appears to the LPA that the amenity

of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area.

7.2.6 Even if the condition of the building was allowed to deteriorate significantly the question to be asked is how much harm would this cause to visual amenity in the public interest? Officers consider that if the building deteriorated to the extent that it collapsed, as a heap of debris it would still have little visual impact. If it collapsed the planning permission for the building would be 'lost' and a fresh planning permission would be required for its replacement. The timber framed canopy with translucent roof and reported to have been erected in 2015/2016 is a relatively low height and thin profiled structure to the rear of the building. It does not cause visual harm and is satisfactory, and it may be a lawful structure in any case as discussed later in this report. The smaller covered area to the east of the building may also be lawful and is likely to be of a scale too small for consideration (*de minimis*). In any event it does not cause any planning harms.

7.2.7 For these reasons, Officers considered that there is no justification on the grounds of visual amenity for requiring the building to be granted a temporary planning permission instead of a permanent (non-time limited) planning permission.

7.2.8 The following advice in Planning Practice Guidance on temporary planning permissions serves to add further weight to granting permission for the building to remain indefinitely:

7.2.9 Paragraph: 014 Reference ID: 21a-014-20140306 of the Planning Practice Guidance, advises that:

*“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period”.*

The Planning Practice Guidance goes on to advise that:

*“It will rarely be justifiable to grant a second temporary permission (**except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities**). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently”.*

*\*bold emphasis added by officers\**

7.2.10 Officers consider that a further trial period to assess the effects of the building on visual amenity (as per the reason for limiting each planning permission to last for three years) is unnecessary.

7.2.11 In effect, the building has been granted three consecutive three year temporary planning permissions to trial it and it has remained in situ for over 15 years without notable signs of undue physical deterioration. It



does not harm visual amenity and Officers consider it unreasonable to limit any further planning permission to a temporary period for this reason.

### 7.3 Impact on neighbouring amenity

7.3.1 As clarified above, the reason for limiting each planning permission (temporary) to three years was: *“in the interests of visual amenity and to maintain proper planning control”*. There is no suggestion in any of the Officer Reports for the previous planning permissions that temporary planning permissions were granted to trial the building and allow an assessment of its noise impacts to be revisited in the future. Rather, the concern at the time seemed to focus on the type of building, in that it *“...is a temporary structure fit for temporary accommodation. It should by no means be seen as a long term solution.”*

7.3.2 There will be those who consider that the Council’s use of the term *“.....to maintain proper planning control”* justifies starting afresh and considering all of the planning issues as though the building had never existed. The fact that the Officer Report for the 2006 planning permission records in paragraph 7.4.1 that no unacceptable neighbour impacts would arise and that the land-use would remain the same in planning terms (the Officer Reports for the 2011 and 2014 say the same) supports the view that the planning permissions were not time-limited because of concerns over neighbour impact or for any other reason except visual amenity. However, even if Officers are wrong on that point, the retention of the building will not cause harmful levels of noise and disturbance and therefore it is unnecessary to trial the use through further temporary planning permissions.

7.3.3 Whilst the Pre-School may focus the activities of the youngest children to the areas of the School grounds in and around the building, it is not considered to cause levels of noise and disturbance that harm unacceptably the living conditions of neighbouring occupiers and future occupiers of the new dwelling at no. 50. As noted in the Officer Report to the 2006 planning permission, the Pre-School building is sited within the grounds of the School on land that could be used by the School for any purpose that a School is used for. The Pre-School building does not amount to a materially different use of the land and it is commonplace for Schools and housing to co-exist in built-up areas. The planning permissions granted did not place any restriction on the operating hours or numbers of children accommodated at the Pre-School (and nor should it have done so), however the School website reports 16 children per session (two sessions per day - morning and afternoon).

7.3.4 Objectors point to the formalisation of the outdoor space at the Pre-School – including the laying of an artificial astro-turf type surface and the erection in 2015/2016 of a timber framed canopy – as part of a general shift to using the outdoor spaces more intensively over the last two years than at any time before.. Objectors also question the lawfulness of these changes which are shown on the submitted drawings and have been observed on-site by Officers.

- 7.3.5 The COVID 19 pandemic is known to have increased the use of outdoor spaces in many settings, including Pre-School and Nursery settings and has led Schools to operate with open classroom windows. This is likely to have led to an increase in the use of outdoor spaces and resultant noise levels over the last two years. However, the land use would continue to be the same irrespective of the presence of the Pre-School. Even if the building in question was removed from the land and the Pre-School disbanded or moved into the main School buildings, the outdoor space could still be used in the same way without breaching planning control, for example by Early Years classes who spend more of the day outdoors.
- 7.3.6 The Case Officer has visited the site and considers that the laying of the artificial grass and paving, which appears to have been done for landscaping purposes, is not a form of development requiring planning control.
- 7.3.7 The timber framed canopy building at the rear of Pre-School building may have required planning permission when it was erected in 2015/2016. Even if it had required planning permission to be erected, it would appear to have been in situ for over 4 years following its substantial completion and if so, would likely be lawful through the passage of time and immune from enforcement action by the Council. In any event the canopy is shown on the drawings submitted and the height of the canopy building and its position relative to neighbouring properties is such that it causes no harm to residential amenity.
- 7.3.8 The canopy may or may not have contributed to increased usage of the outdoor space in recent years. Either way, the fact remains that it does not change the land use and the land can be used in the same way regardless of whether the Pre-School building remains in situ or not. The land is lawfully in use as a School and the outcome of this planning application to retain the building will not change that.
- 7.3.9 Looking at the planning records, the only change to the immediate surroundings of the School is the grant of planning permission in 2019 (ref. 19/00417FUL and later amendments) for the conversion and extension to the annexe at no. 50 Main Street to an independent dwellinghouse. This planning permission is extant and is understood to have been implemented. The presence of this dwelling should be considered in judging the acceptability of retaining the Pre-School building indefinitely. The dwelling would be located approx. 15m from the building with a stone wall and parking area in between.
- 7.3.10 Planning permission for new dwellings would normally be refused if noise from existing lawful sources (e.g. roads, railways or other land uses) would result in unsatisfactory living conditions for future occupiers. Therefore, planning permission for the conversion of the annexe at no. 50 to a dwelling would not have been granted if the noise and disturbance from the School would have harmed unacceptably the living conditions of the future occupiers. Given the expiration of planning permission for the Pre-School building in 2017, it could be said that decision makers for the annexe to dwelling planning permission may have been unaware of the presence of the Pre-School building. Even if that was the case, the Pre-

School use of the building and land around it is the same as for School. As noted in the Officer Report to the 2006 planning permission, the Pre-School building is sited within the grounds of the School on land that could be used by the School for any purpose that a School is used for.

7.3.11 There is no reasonable justification in planning terms to limit the time the children spend outdoors so as to mirror the shorter break-time and lunch-times in most of the rest of the School. The previous planning permissions did not do that and the land use remains the same.

7.3.12 For these reasons there is no sound basis to refuse planning permission for the Pre-School building to remain in situ on the grounds of noise impact. The building was granted temporary permission for reason of “visual amenity” and Officers consider that nothing has materially changed in the years since permission was first granted in 2006 to justify refusing planning permission.

7.3.13 **Conclusion on visual amenity and neighbour amenity:**

7.3.14 The conclusion reached is that the Pre-School building does not unacceptably harm either visual amenity or the living conditions of neighbouring occupiers. This conclusion has consistently been reached since 2006.

7.3.15 Do changing circumstances (in the words of the Planning Practice Guidance) provide a clear rationale for granting a fourth temporary planning permission?

7.3.16 No. Whilst the Planning Practice Guidance advises that:

*“It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities)”.*

In this case we are dealing with a fourth planning application and there are no changing circumstances that provide a clear rationale for granting further temporary planning permissions instead of a permanent permission. The Pre-School has become a near permanent setting within the School grounds and the building does not cause unacceptable harm. There is no indication that circumstances will change at any particular point the future.

If permission was refused can the School erect a building for use as a Pre-School?

7.3.17 Since April 2021, all state funded Schools have wider permitted development rights to carry out development without needing to apply for planning permission. Class M, Part 7 of the General Permitted Development Order 2015 (as amended) grants planning permission for the erection, extension or alteration of a school, college, university, prison or hospital building, provided the development is only used as part of, or for a purpose incidental to, the use of that school, college, university, prison or hospital; and subject to the following limitations:

M.1 Development is not permitted by Class M—

(a) if the cumulative footprint of any erection, extension or alteration under Class M on or after 21st April 2021 would exceed the greater of—

- (i) 25% of the cumulative footprint of the school, college, university, prison or hospital buildings as it was on 21st April 2021; or
- (ii) 250 square metres;

(b) in the case of a college, university, prison or hospital building, if any part of the development would be within 5 metres of a boundary of the curtilage of the premises;

(ba) in the case of a school, where any land adjacent to the site is used for a purpose within Part C of the Schedule to the Use Classes Order (residential purposes), if any part of the proposed development is within 5 metres of the boundary of the curtilage of that residential land;

(c) if, as a result of the development, any land used as a playing field at any time in the 5 years before the development commenced and remaining in this use could no longer be so used;

(d) if the height of any new building erected would exceed —

- (i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or
- (ii) in all other cases, 6 metres;

(da) if the height of any rooftop structure would exceed 1.5 metres;

(e) if the height of the building as extended or altered would exceed—

- (i) if within 10 metres of a boundary of the curtilage of the premises, the lesser of the height of the building being extended or altered or 5 metres;
- or
- (ii) in all other cases, the height of the building being extended or altered;

(f) if the development would be within the curtilage of a listed building; or

(g) unless—

- (i) in the case of school, college or university buildings, the predominant use of the existing buildings on the premises is for the provision of education;
- (ii) in the case of hospital buildings, the predominant use of the existing buildings on the premises is for the provision of any medical or health services;

Class M, Part 7 of the General Permitted Development Order 2015 (as amended) grants planning permission for hard surfaces within the curtilage of any school or the replacement in whole or part of any such surface, subject to certain limitations.

7.3.18 It is not possible to be definitive on this point since it is not known whether the School has used up any of the floor space allowance since April 2021. However, if it has not, it would appear that the state funded School can erect a building in the grounds of the School provided that the building is

more than 5m away from a boundary with a dwellinghouse and is no higher than 5m within a distance of 10m from the boundary or 6m high in any other case, and provided the building is only used as part of, or for a purpose incidental to, the use of that school. Therefore, a taller building could be erected in a similar location to the existing mobile building, albeit a few metres further from the boundary with neighbouring dwellinghouses.

## 7.5 Responses to representations:

- 7.5.1 Concerns are raised about the structural integrity of the building and whether it complies with insurance requirements and other legislation, including the Building Regulations and potential sub-letting of the school estate to the Pre-School. In response, Officers advise that planning is concerned with the impacts of development in the public interest. Insurance is a private matter for the operator of the development. Sub-letting, should it happen, is not a planning matter that has any effect on the area.
- 7.5.2 The structural integrity of the building now and in the future is not a planning matter and will be governed by other legislation. The Council has a record of Building Control approval being granted to a mobile building on the site in 2006 and once a building is completed/brought into use the Building Control Team does not have any ongoing control in respect of the physical condition of a building, unless it degrades to an extent where parts of the structure become dangerous. It would be unreasonable and unnecessary to impose a condition requiring surveys of the building's condition to be submitted as this would not be a planning matter.
- 7.5.3 It is noted that Officers reported from 2006-2014 that the building was temporary and unsuitable for a permanent planning permission and would not be allowed to become permanent – it would be resisted. However, the reason for this was not (and could not reasonably have been) public safety. The reason on the decision notice was *“in the interests of visual amenity and to maintain proper planning control”* and is thought to have arisen from concerns that the building could deteriorate to the extent that its condition harmed the character and appearance of the area. As reported above, these concerns have proven unfounded and there is no basis on visual amenity grounds to withhold a permanent planning permission.
- 7.5.4 The status of the outdoor areas of the Pre-School, the two covered areas (one large covered area erected in 2015), astro turf and paved areas (laid circa 2020) are addressed above.
- 7.5.5 Concerns over noise impacts are addressed above.
- 7.5.6 Concerns over a lack of justification to continue using this temporary building are noted. However, in this instance there is no material change in land use and planning is concerned with the impacts of the development as addressed above. It is satisfactory 'in principle' to have a Pre-School in the grounds of a School and these circumstances have not changed since 2006.

- 7.5.7 Modes of transport from home to school are influenced by matters including admission policies and parental/carer choice and can change over time. It is understood that the School is not at full capacity. There is no authoritative evidence to suggest that the Pre-School generates traffic levels and parking pressure that has a severe impact on the road network or highway safety. The same applied to the previous planning permissions and none of those permissions placed any geographical restriction on who could attend the Pre-School (and nor should they have done). There is no basis for a refusal of planning permission on highway safety grounds.
- 7.5.8 Regarding capacity within the School buildings to accommodate the Pre-School, this is not a determinative factor because the responsibility of the Council is to determine the application as submitted, involving an assessment of the impacts of the development and compliance with policy. If the development is acceptable, it should be granted planning permission and not withheld on the basis that a preferable alternative does or could exist. To withhold permission on this basis would amount to unreasonable behaviour.
- 7.5.9 Similarly, there is no basis on which to limit the further grant of permission to a temporary period as has been suggested. The development has been and remains acceptable. The grant of permanent planning permission does not stop the Pre-School and the School from considering other options or removing the building in the future.
- 7.5.10 Concerns have been raised that not all neighbouring properties have been notified and no site notice has been displayed to raise awareness of the planning application. A site notice has been displayed at the School entrance and all appropriate neighbouring properties are shown on the Council's database as being sent a notification letter.
- 7.5.11 The letters of support are noted, including the response from the School that the Pre-School cannot be accommodated within the School building. As said above, whether or not the Pre-School can or cannot be accommodated with the School building is disputed but is not a determinative factor.
- 7.5.12 The council is required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The building has no impact on the settings of the listed buildings in the locality.

## **8. Other Matters**

---

8.5 Neighbour comments are addressed above.

8.6 Equality: Section 149 of the Equality Act 2010 says that:

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Protected characteristics under the Act include age. Children who use the Pre-School share this characteristic as the provision is age limited.

Refusing planning permission could impact on the benefits of the Pre-School to young children where age is a protected characteristic, particularly as there is said to be no opportunity to accommodate the Pre-School in the School building. Whilst the temporary planning permissions anticipated the removal of the Pre-School building in question, there appears to be an expectation that the Pre-School would remain operational in some form on the site but there is no assurance that that would happen. Officers are satisfied that the building does not cause unacceptable harm and if planning permission was refused it could have an adverse impact on young children, particularly if alternative settings are not readily available as some contributors have suggested. Officers have dealt with relevant issues and the objections to the proposal and have therefore considered the need in decision making to have due regard in relation to clause 1 of the above Act.

- 8.7 Health Impact Assessment: the development will contribute to healthy, inclusive and safe communities.

## **9. Conclusion / Planning Balance**

---

- 9.5 The Pre-School building does not cause unacceptable harm to visual amenity or to the living conditions of neighbouring occupiers of land and buildings. It brings significant benefits to the wider community through providing a childcare and learning setting. Planning permission should therefore be granted to retain the building on a permanent basis. There is no reasonable basis to time-limit the permission to a temporary period.

## **10. Recommendation**

---

- 10.5 Grant planning permission.

## **11. Conditions**

---

- 1 The development hereby permitted is shown on drawings OUA01 and OUA02A received by the Local Planning Authority on 23 November 2021.

Reason: to clarify the terms of this planning permission.